



Illicit Financial Flows, including Illicit Economy and related matters

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Background

- Subsequent to the parliamentary hearing in May 2017 relating to Illicit Financial Flows (IFFs), the Financial Intelligence Centre (FIC) called a meeting of the various Government Agencies to create a coordinating forum on IFFs.
- In February 2018 a Terms of Reference (TOR) for the coordinating forum was drafted and approved, resulting in the Inter-Agency Working Group on IFFs.
- Two levels of IFF coordination have been created through the TOR, namely the Operational Inter-Agency Working Group (IAWG) and the Task Working Group.
- The operational committee is responsible for the overall coordination and direction of IFF matters while the Task Working Group is responsible for the receipt and selection of cases requiring a multi-agency, multi-disciplinary approach.

IAWG Process Flow

IAWG Task Working Group Process

- Receive IFF case registration request
- Review IFF case
- Refer case to IAWG Operational Committee for approval
- Monitor and IFF case progress to IAWG Operational Committee

IAWG TWG Criminal Investigation Process

- Receive approved IFF case via CMS
- Appoint lead agency on case
- Approval of investigation plan
- Conduct investigation/ gather intelligence
- Consult with other effected Agencies
- Register IFF case with NPA
- Await response/feedback from NPA

IAWG TWG Administrative Process

- Secretary receive IFF case registration request and doc
- Upload request on CMS (Case management System)
- Review IFF case registrations with IAWG TWG
- Recommend IFF case to IAWG Operational Committee
- Update CMS once Ops Committee approval received
- Provide Report to IAWG Operational Committee

Manage Trial

- Allocate case to prosecutor
- Present case at court
- Investigator monitor case and provide feedback to the IAWG TWG

IAWG Case Selection Criteria

Adopted Working Definition (as adopted by the IAWG-IFF)

An Illicit Financial Flow (IFF) is defined as the illegal movement of money or capital from one country to another when funds are illegally earned, transferred and/or utilized.

This definition therefore covers various aspects in relation to the movement i.e.:

- Illegally earned as in drug trafficking, fraud or theft. This will fall within the legislative framework relating to proceeds of crime – POCA.
- Legally earned but illegally transferred. This falls within the legislative framework relating to Exchange Control and would typically relate to fraudulent documentation being presented, or non-declaration of cash in the case of “cash mules”.

Case Selection Criteria [for Inter-Agency Collaboration beyond BAU]

- Cases must fall within the definition of IFF;
- Minimum financial threshold of R100 million;
- Minimum of three investigative agencies involvement; and
- Any other significant matter (which may fall outside of the above case selection criteria)

IAWG IFF Cases

- There are currently nine (9) cases identified for a multi-agency multi-disciplinary approach.
- The total estimated financial flows in relation to the above cases are in excess of R9 billion.
- From the initial analysis there are serious concerns from a tax point of view with these cases

SARS IFF Interventions – Cash Couriers at Ports of Entry

- During the period 01 April 2017 to 27 March 2018 there were **21 cash seizures** with a total **value of R 79 million**.
- During the period 01 April 2018 to 08 May 2018 there was **one cash seizure** with a **value of R 7 million**
- Cash was a combination of Rand, US Dollars, Pounds and Euro.
- Most of the 22 seizures to date (13 seizures) took place at OR Tambo International Airport.
- It should be noted that Cash Couriers are a specific focus of the IAWG.

FIC Referrals to SARS

During the period 01 April 2017 to 30 April 2018, the summary of FIC referrals to SARS were as follows:

379 Cases have been received since last year with an associated value of R2 billion.

Of these 379 cases, SARS has dealt with 60 cases (16%) to date as follows:

- 20 cases have been referred for an Investigative Audit intervention (5%);
- 6 cases referred have been completed (2%) *with a yield of R1.8 million*; R108k has been banked with regard to these assessments raised;
- 21 cases have been referred to Outstanding Returns for collection of outstanding returns (6%);
- 19 cases were deemed to be low risk (5%); whilst
- 178 cases in risk-profiling (47%); and
- 141 cases were received during March/April 2018 and are currently being reviewed prior to risk-profiling (37%)

*****NB: The FIC Cases referred do not necessarily translate to being IFF referrals***

Difference between IFFs, BEPS and Transfer Pricing

Illicit Financial Flows (IFF's) is defined as the illegal movement of money or capital from one country to another when funds are illegally earned, transferred and/or utilized. (As adopted by the IAWG-IFF)

BEPS (Base Erosion and Profit Shifting) is defined as tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations.

Transfer Pricing is broadly described as the process or methodology used in setting of the price for goods and services sold between controlled (or related) legal entities within an enterprise which, in principle, should match either what the seller would charge an independent arm's length customer or what the buyer would pay an independent arm's length supplier.

BEPS Cases

Progress in the last 4 years on BEPS cases

BEPS Progress	2015'	2016'	2017'	2018'
BEPS Results	1 733 251 030	7 050 495 906	6 665 752 847	13 871 624 603
BEPS Cash Results	1 307 909 745	1 004 949 494	2 737 737 600	2 229 332 931

Trade Mispricing

SARS actions so far considering the commercial angle of IFF:
Trade Mispricing

- SARS has done empirical research and applied it to a pilot industry.
- SARS has obtained technical and Senior Counsel opinions on the findings from the research undertaken.
- SARS has identified prevalence of certain presumably trade mispriced transactions.
- SARS is currently busy with a pilot audit case to test the veracity of research.
- Once the audit has been concluded, it will be rolled out to the industry researched and broader economy at large.

Illicit Economy and Tobacco

- Historically SARS' Project Honey Badger was managed under a unit called National Projects. National Projects brought about the integration and coordination of various capabilities and dedicated teams to focus on specific areas of the illicit economy. These capabilities included Customs Investigation, Audit and Criminal Investigations.
- SARS currently has one dedicated function focusing on the tobacco industry called the Integrated Audit Tobacco team. The Integrated Audit Tobacco team has 8 permanent members and 9 temporary members. Project expenditure, excluding staff costs, of the team was R1.2m for 2014/15; R2.2m for 2015/16; R2.8m for 2016/17 and R1m for 2017/18.
- SARS wants to reestablish teams to focus on Illicit activities

Automatic Exchange of Information (AEOI)

- SARS has been an early adopter of the AEOI
- The first data was received in the latter half of 2017
- SARS is in the early stages of matching data to our tax base

Conclusion

- Steps have been taken by SARS to curb illicit outflows by identifying cash couriers at our ports of entry (R79m seized) and addressing aggressive tax planning structures (R13.9bn in audit assessments raised and R3bn in cash collections) which erodes the fiscus.
- Steps have been taken to improve inter-agency collaboration on matters pertaining to Illicit Financial Flows with currently nine (9) cases identified for a multi-agency multi-disciplinary approach, with a total estimated financial flows in excess of R9 billion.
- Such cases are based on the agreed Case Selection Criteria amongst the multi-agencies and incorporate matters which deal holistically with Illicit Financial Flows, including for example Illicit Tobacco Trade and Illicit Mineral Resource.
- SARS wants to set up a multidisciplinary team to tackle IFFs and tobacco related cases.

Thank you
Re a leboha
Re a leboga
Ndza Khensa
Dankie
Ndi a livhuwa
Ngiyabonga
Enkosi
Ngiyathokoza